

CHAPTER 88 CLOSING OUT SALES

TABLE

88-1 Closing Out Sales

88-1. Closing Out Sales. 1. DEFINITIONS. a. Advertising. Any and all means of conveying to the public notice of sale or notice of intention to conduct the sale, whether by word of mouth, or by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by banner, by billboard display, by poster, by radio or television announcement and any and all means, including oral, written or printed.

b. Applicant. Any person applying for or required to apply for a license under this section.

c. City sealer. The sealer of weights and measures of the city of Milwaukee.

d. Closing out sale. The sale of any goods, wares or merchandise at retail represented or advertised in any manner to be the goods, wares or merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, or that is selling out or closing out, closing or disposing of its stock or a particular part or department thereof, or that has lost its lease or has been or is being forced out of business, or that is conducting a removal sale, or is disposing of stock on hand because of damage by fire, water, smoke or other causes, or that the business conducting the sale is selling the goods, wares or merchandise of any other business which is in liquidation or has quit business or a sale that is held out in such manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon the disposal of the stock of goods on hand.

e. Partial removal sale. A sale in the regular course of its business of goods represented to have been purchased from a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or

person, that is liquidating or that has been forced out of business while at the same time the applicant sells at its place or places of business goods, wares and merchandise out of its regular stock where the applicant will not discontinue its regular business after such sale.

f. Person. Any person, firm, or partnership, association, corporation or organization of any kind.

2. LICENSE REQUIRED. It shall be unlawful for any person to advertise or conduct at retail within the city of Milwaukee any closing out sale or partial removal sale without first having obtained a license to conduct such sale.

3. APPLICATION TO BE FILED WITH CITY SEALER. Every person requiring a closing out sale license or partial removal sale license shall make a verified application in writing to the city sealer. The city sealer may approve a license at any time within 30 days after such application. There shall be no advertisement or commencement of such sale until said license is issued and in effect. As a part of such application such person shall submit the following:

a. A complete and accurate list of the stock of goods, wares and merchandise on hand to be offered at such sale accompanied by an affidavit by a certified public accountant having no financial interest in such sale, from which it shall appear that the information set forth in said inventory is true and correct according to commonly accepted accounting practices within the trade. Such inventory shall contain the cost price as well as the initial marked retail price of the respective articles enumerated therein, together with the date of purchase or purchases and the names and addresses of the sources from which merchandise was obtained. If the goods, wares and merchandise were purchased by the applicant for a lump sum or other circumstances that in the judgment of the city sealer make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said goods, wares and merchandise and the circumstances of the purchase of the same.

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b. An affidavit setting forth the names and addresses of the person, such as partners, officers, directors, principal stockholders, and owners of the business and merchandise, the place at which said sale is to be conducted and the period of time during which the proposed sale is to continue. Such affidavit shall further state that the applicant has been the owner of the business described in the application for at least 12 months prior to the date of the application. Such affidavit shall further state the names and addresses of any person or persons aiding in or conducting said sale other than employees of the applicant who have been employed for not less than 90 days prior to the application.

c. Photostatic copies of the personal property tax returns of the applicant for the 2 years preceding the application.

d. Photostatic copies of Wisconsin department of taxation form 10 filed by the applicant for the 2 years preceding the application.

e. An affidavit by the applicant that no stock has been ordered for or added to the applicant's stock within a period of 60 days prior to the filing of the application.

f. Such other information as the city sealer may require.

g. Paragraphs c to e shall only apply to closing out sales and shall not be required in partial removal sales.

4. TIME OF SALE. a. Not in Excess of 60 Days. No license shall be granted by the sealer for a period in excess of 60 successive days, Sundays excepted, from the date of the issuance of said license. In the event a license has been granted for a period of less than 60 days, the applicant therein, upon tendering the additional amount sufficient to constitute the fee required for a license for a longer period, but not exceeding 60 days, may have the expiration date of such license extended to such further date.

b. Extensions. The period of time for which a license may be granted may be extended by the city sealer beyond said 60 days period, if at any time during the term of the license a written application for such extension, duly verified by an affidavit of the applicant, shall be filed by said licensee with the city sealer. Said application for an extension of said license shall state the amount of goods, wares and merchandise listed in the

original inventory which have been sold since the issuance of the license and the amount of goods contained in the original inventory which still remain in the possession of the applicant for sale, and shall state the length of time for which an extension is requested. The city sealer, in consideration of the facts upon hearing said petition, may grant or deny a supplemental license, provided, however, that the extension of the supplemental license shall not exceed 30 days from the expiration of the original license. The fee for the extension of the license is provided for in s. 60-16.

5. CONDUCT OF SALE. a. Stock. No stock of goods, wares, or merchandise may be added to the inventory of stock being sold if the same was ordered or received within 60 days prior to the application for license, and no stock may be added during said sale.

b. Pricing. No advertisement of such sale shall set forth the previous retail price of any merchandise being reduced in price as a part of the sale unless identical merchandise was sold continuously at such retail price during a period of time at least 90 days prior to the commencement of the sale. Evidence of such prior sales shall be available on demand.

c. Labeling. No labels using the applicant's business name or any other known brand name may be placed on any merchandise for purposes of or during the sale, unless labels had been placed on identical merchandise which was sold continuously during a period of time at least 90 days prior to the commencement of such sale.

d. Management. If any person or persons are retained to conduct or manage the sale, other than the applicant or employees who have been employed continuously for at least 90 days prior to the commencement of the sale, the names and addresses of such persons shall be clearly stated in all advertising material so that the public is aware that such persons are conducting or managing the sale. e. Inventory Report. At the end of each week of such sale and within 2 days thereafter, the applicant shall submit to the city sealer a statement under oath as to the total of retail selling prices of the inventory sold during that week, and the total amount of inventory remaining to be sold.

f. Remaining Stock. At the end of the time of closing out sale under the license, it shall be unlawful for the applicant, or any successor in interest, to sell at retail any of the stock of goods remaining at the location for which the license was issued.

6. DENIAL OR REVOCATION OF LICENSE. Whenever the city sealer finds that the applicant, his agents, servants or employees have failed to provide any of the information required with the application or during the sale, or have furnished any false information, or have failed to comply with any of the requirements of this section, he shall forthwith deny the application or revoke the license.

7. REPETITIOUS SALES PROHIBITED. No person or successor in interest shall be granted a license to conduct a closing out sale within 12 months after a closing out sale license is granted, applied for and denied and/or revoked.

8. PARTIAL REMOVAL SALES. Any person conducting a partial removal sale shall comply with all of the provisions of this section and, in addition, shall distinguish by a colored tag all of the goods being sold at the sale so that said goods are readily ascertainable to prospective purchasers and shall not label or tag any other goods not included in the inventory furnished the city sealer in the same or like manner.

9. FEES. See s. 60-16 for the required license fees.

10. EXCEPTIONS. The provisions of this section shall not apply to sales by public officers or sales under judicial process.

11. PENALTY. Any person violating or failing to comply with any of the provisions of this section or furnishing any false information to the city sealer shall be subject to a fine of not less than \$25 nor more than \$500 together with the costs of action, and in default of payment thereof to imprisonment in the county jail or the house of correction of Milwaukee county for a period not to exceed 30 days, or until such fine and costs shall be paid. Each day a violation continues shall constitute a new offense.

88-- (History) Closing Out Sales

LEGISLATIVE HISTORY CHAPTER 88

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

m = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
ch. 88	m	72-2153	4/9/74	4/25/74
88-1-4-b	am	78-2150	6/12/79	1/1/80
88-1-4-b	am	921724	3/2/93	3/19/93
88-1-9	rc	78-2150	6/12/79	1/1/80